

Attachment #2

POLICIES AND REQUIREMENTS IMPLEMENTING FIVE STATUTORY PROVISIONS RELATED TO THE USE OF COP, COP-W, CIP-II FUNDING IN CBRFS

DETERMINATION OF THE INFEASIBILITY OF HOME CARE, CLIENT PREFERENCE, QUALITY OF THE FACILITY AND SERVICES, AND COST-EFFECTIVENESS

I. Introduction

A county may use COP, COP-W, and CIP-II funds, to provide services to a person residing in a CBRF if the county department or aging unit has determined that all five conditions under s. 46.27 (7) (cj) 3., s. 46.27 (11) (c) 5n., or s. 46.277 (5) (d) 1n., Stats., have been met. These conditions include:

- The completion of an assessment or consultation before the person's admission, regardless of ability to pay,
- Determination that in-home care services are infeasible,
- Determination that the CBRF is the person's preferred residence,
- Determination that the CBRF provides a quality environment and quality care services,
- Determination that the CBRF is cost-effective when compared to other residential options.

All of the above criteria must be met in order to use COP, COP-W, CIP-II funding for a person residing in CBRFs of any size. All conditions hold equal weight and all must apply before COP, COP-W, and CIP-II funding can be used in that CBRF for that person. Counties can establish more restrictive conditions if they so choose. These conditions do not need to be met when an individual resides or intends to reside in a facility that consists entirely of independent apartments or for an individual with an irreversible dementia in facilities with a dementia care program.

When these statutory provisions became law in 1997, the language affirmed that Community Options and the Medicaid-Waivers are home care programs and its funds must be used only for home care, allowing for a few exceptions. Examples of these exceptions include: Adult Family Homes, CBRFs with independent apartments, and Residential Care Apartment Complexes (RCACs). These settings are comparable to living in one's own home or apartment, where the resident continues to have the privacy and autonomy associated with living independently. If a county chooses to use these funds for services, (or COP-Regular for room and board) for individuals in other types of CBRFs, then additional conditions have to be met to assure that limited home-care funds are being used in a manner that promotes the goals of the program.

This document will provide the policies and guidelines to implement these statutory provisions, excluding the pre-admission assessment. Technical assistance on each criterion (including model forms, and a question and answer document) will appear in a COP Informational Bulletin that will be issued in the near future.

Note: The pre-admission assessment/consultation has already been implemented and, therefore, this document will not contain a section on this condition. The other four conditions could not be implemented until the criteria for the determination of the infeasibility of in-home services was promulgated in administrative rule. This rule has been promulgated and published as of September 1, 2001.

II. Criteria for Determination of the Infeasibility of In-Home Services

A. Rationale for this Criteria

Community Options and Waivers are home-care programs. As such, program funding should be used to support people in their own homes when it is feasible to do so. Certain circumstances do not allow an individual to maintain residence at home, even when supports, modifications, and assistance are put in place or are explored. It is in circumstances such as these that the least

restrictive setting may be a substitute care arrangement and these funds may be needed to help pay for CBRF services for that individual.

Too often these home supports, modifications, and assistance are not sought, however. In order to be consistent with the program goals for consumers, all options must be explored in an attempt to allow an individual to stay at home.

B. Policy Content

As stated in Administrative Rule HFS 73.11:

To determine that in-home care is infeasible, the county department or aging unit shall document in writing that all of the following have occurred:

1. A change has occurred in the individual's condition, functioning, living situation or supports so that arrangements that were in place and adequate to maintain the individual's health, safety and well-being are no longer sufficient to provide or ensure the provision of what the individual needs.

Examples include, but are not limited to:

- Spouse or other family member who has been a major caregiver dies or for some reason can no longer provide care;
- There is a major change in the medical condition of a program participant such as a stroke or heart attack and there is need for more care and support but the additional funds or needed caregivers are for some reason not available.

2. Options for supporting the individual in his or her own home and community have been explored or attempted but have either failed or been found to be unavailable or not possible.

Examples of efforts include, but are not limited to:

- Other relatives, friends, neighbors or volunteers have been contacted;
- Professional workers from a home health agency have been recruited and have attempted unsuccessfully to work with the individual in his or her home;
- Other options have been pursued, such as modifying the home and providing adaptations and aids to enable the individual to be more independent;
- Obtaining nutritional services, adult day care and transportation are not available, feasible or cost-effective.

C. Application of Requirement

For people inquiring about residing in a CBRF, who currently live in a substitute care setting such as an Adult Family Home, Residential Care Apartment Complex, or Nursing Home, home-care options must still be explored. If it is not possible for the person to return to their house, options should be explored in an apartment. Where options are not possible in these home-care settings, in accordance with the process outlined above, home-care may be determined infeasible.

III. Criteria for Determination that the CBRF is the Preferred Residence

A. Rationale for this Criteria

One of the guiding principles of the Community Options Program is that individuals can choose where and with whom they live. This provision assures that consumers are informed of their options, that their preferences are explored and reflected in their residential setting, and that they ultimately choose to reside in a particular CBRF if they want to.

B. Policy Content

1. To determine that the CBRF is the person's preference, written documentation must be available which shows the following:
 - a. The assessment includes an exploration of an individual's lifestyle habits and preferences that at a minimum determine if the person prefers a private room or a shared room.

Note: Examples of other lifestyle preferences may include:

 - Rural vs. urban
 - A house vs. an apartment
 - Small community vs. large community
 - Living alone vs. living with others
 - Social vs. quiet atmosphere
 - People their age vs. mixed age
 - Men or women only vs. mixed gender
 - Small vs. large
 - b. The individual has been fully informed of all residential options and the advantages and disadvantages of each, including: supports in their own home or apartment, an Adult Family Home, a Residential Care Apartment Complex, a CBRF with independent apartments, a small, medium, and large CBRF, and a nursing home.
 - c. The individual has had the opportunity to visit one or more CBRFs, and, when desired, other residential settings.
 - d. The individual, or legal guardian when a person is adjudicated incompetent, indicates that he or she desires the proposed move into a particular CBRF he or she has selected.
2. As of May 1, 2002, any new participant or any participant moving from home to a CBRF with more than eight beds shall have the **option of a private room** in a quality residential care setting.

Note: Private room means a sleeping room that is occupied by a single individual. The room need not include bathroom or kitchen facilities.

C. Application of Requirement

If a client initiates interest in a particular CBRF that does not offer a private room, a private room option shall be offered in another residential arrangement. When a client continues to prefer a CBRF that does not offer a private room, COP, COP-W, CIP-II funding may be used to support an individual in a shared room of his or her choice. This shall be documented clearly in writing.

Offering a private room does not mean that every CBRF must offer a private room. It does not mean that the person must have a private room to receive funding nor does it mean that the private room must be in the CBRF the person most prefers. What it does mean, however, is that the participant shall be presented with a private room as a residential option, in at least one facility. In other words, the participant may choose whether a private room is more important than the choice of a particular facility.

D. Rationale for a Private Room Requirement

Research has shown that privacy in a person's living arrangement is not only preferred by consumers of assisted living, but is considered an indication of the quality of the facility. In a 1998 study published by The Public Policy Institute of the American Association of Retired Persons (AARP), 82% of the 694 older persons surveyed preferred a private room versus one shared by someone they had not known previously. Eighty-seven percent preferred a smaller private room versus a larger shared room, and when asked to rate concern for four issue areas in assisted living, 71% responded that they were "very concerned" or "somewhat concerned" about

having to share a bedroom with a roommate they did not know. Receiving low-quality care was the highest rated concern among the four issues. These results are echoed in several other studies.

Successful implementation of the goals of the Community Options Program can be measured by the extent to which a participant's preferences and choices are honored, and satisfaction with the services delivered is achieved. It is with these statistics and program goals in mind that participants have the choice of a private room as a viable community option.

IV. Criteria for the Determination of Quality of Service and Environment

A. Rationale

When purchasing services for an individual using public funding, it is a county's obligation to arrange and purchase quality services in a quality environment for consumers. People who are elderly, have a form of irreversible dementia, or have a physical disability have individualized needs and are potentially vulnerable in substitute care settings. Therefore, there is a need for quality standards beyond licensing standards that address the specific needs of these individuals when using the funds that support them.

B. Policy Content

To determine that the CBRF provides quality care services within a quality environment:

1. A county agency shall establish standards or criteria for quality in a CBRF.
2. At a minimum, the standards or criteria shall include provisions related to the following:
 - a. The facility allows for privacy.

Note: Examples include, but are not limited to:

- The facility offers a private room to all residents regardless of their ability to pay;
- Facilities that do not offer a private room allow the person to choose with whom they share their room;
- The bathroom is in or adjacent to the individual's bedroom to prevent incontinence and provide for privacy.

- b. The facility has corrected any sanction, penalty, or deficiency imposed by the Department in accordance with processes outlined in HFS 83 and to the satisfaction of the county agency.

Note: Examples include, but are not limited to:

- Require that the facility submit to the county agency a copy of the Department's survey findings;
- Require the facility to submit to the county agency a copy of the facility's Plan of Correction;
- Require documentation of compliance with the facility's Plan of Correction.

- c. Care, services, and the physical environment of the CBRF address the individual needs of the client.

Note: Examples include, but are not limited to:

- The facility makes medical appointments and provides transportation when residents are unable to;

- The facility has a nurse on staff or access to nurse consultation is readily available;
 - The facility has a plan to respond to medical emergencies;
 - A variety of social and recreational activities are offered in-house and in the community;
 - Staff are well-trained and competent, and ratios are sufficient to meet the needs of clients;
 - There is safe access to outdoor activities;
 - The home appears to be safe and secure;
 - Doorways, hallways, and rooms are large enough to accommodate wheelchairs if applicable;
 - Architectural modifications and equipment respond to resident needs.
- d. Care, services, and the physical environment provided by the CBRF address the individual preferences of the client.

Note: Examples include, but are not limited to:

- Consumer involvement in meal planning, and food preferences are honored;
 - The value of human relationships is emphasized and community integration occurs often;
 - The facility has a home-like appeal where personal belongings are safe and available for personal use;
 - Privacy and time alone are honored;
 - Rooms are attractive, clean, well-lit, and well ventilated.
- e. The CBRF provides opportunities for potential new residents, their families and county care managers to observe, experience and evaluate everyday activities.

C. Application of the Requirement

The established quality standards or criteria shall be incorporated into the contract (or as an addendum) with the CBRF provider, and the CBRF must adhere to these standards in order to receive these funds. A process for effectively evaluating that the CBRF meets these standards or criteria shall also be incorporated.

Note: As found in the COP Guidelines, (Section 2.04 M 5.) as part of the contract for services with a CBRF, a lead agency may specify special requirements that a facility must meet in providing services to individual(s) whose cost of care is funded through COP. Counties are not required to contract with facilities that are unable or refuse to meet these special requirements.

Nothing contained in this section reduces the requirement for regular case-management contacts.

V. Criteria for the Determination that the CBRF is Cost-Effective

A. Rationale for this Criteria

When a CBRF is cost-effective, it has the capacity to provide quality services to meet the needs of a consumer at a cost that is reasonable. Determining what a reasonable cost is involves comparing the costs of similar options that would effectively meet the needs of the individual. This condition assures that COP-Regular, COP-W and CIP-II funding is being maximized in a quality setting that a person prefers.

B. Policy Content

To determine the cost effectiveness of a selected CBRF for a person who is functionally and financially eligible for COP, COP-W, and CIP II funding, the following documentation is required in the program participant's file:

1. A copy of the participant's functional screen.
2. A copy of the participant's complete COP assessment.
3. A copy of the plan of care.
4. A listing of the services to be provided in the CBRF, the facility rate and any supplemental services such as care management, adult day services, transportation, etc. and their costs.
5. A listing of feasible community services, provided in home or in a less restrictive residential setting, to meet identified needs which includes service costs.
6. A cost comparison of the specific CBRF identified for potential placement, the projected community care costs as reflected in the individual service plan, and the average cost of a nursing home in the county based on the determined level of care.

For the CBRF to be considered cost effective, the cost comparison will show that the facility has the capacity to effectively meet the needs of the consumer at a reasonable cost.

C. Application of the Requirement

Cost effective does not always mean that it is the least expensive or that it is inexpensive, rather that an individual will receive comparable quality services that meet their needs at a reasonable cost. When a CBRF's costs are much higher for similar services received at home, in a nursing home, or other setting, the CBRF is not cost-effective.

The county lead agency must determine that a person's service costs, while residing in a CBRF, are cost effective or reasonably priced when compared with other service options, including home care and nursing home care, in order to fund CBRF placement. This requirement applies only to CBRF care; it does not apply to home care. Counties can choose to fund individuals in their own homes at a higher cost than CBRF or nursing home care when it is the consumer's preference and a home care plan is feasible.

Cost is only one of the criteria to be reviewed in deciding on CBRF services and is of equal value/weight to consumer preference, feasibility of home care, and quality of service and environment.

VI. Effective Dates and Local Phase-In

As of May 1, 2002, the conditions have to be met at the time of enrollment in the program or whenever a CBRF is being considered by a current participant.

The pre-admission assessment requirement must be conducted prior to admission, at which time a county can choose to discuss the other four conditions as well. Since these are conditions on the use of COP-Regular, COP-W, & CIP-II, a county can choose to discuss the other four criteria at the time that this funding may be available for that individual and/or service plan options are being discussed.

VII. Exemptions from Meeting the Five Conditions

These conditions do not need to be met when an individual resides or intends to reside in a facility that consists entirely of independent apartments or for an individual with an irreversible dementia in facilities with a dementia care program.

A CBRF is considered to have a dementia care program when, at a minimum, the CBRF is designated as an Alzheimer's facility as determined by licensure and program statement, staff members receive client group specific training in dementia care, and staff members provide activity programming for persons with an irreversible dementia. Further information regarding criteria for dementia care programming can be found in the memorandum dated June 24, 1998, regarding the use of COP and Waiver Funds in CBRFs.

VIII. Current Residents

Private pay residents currently residing in CBRFs, who wish to access COP, COP-W, CIP-II funds in that CBRF at the time such funding is necessary and available, must have documentation of the four criteria discussed in this memo. The record for that individual shall also have documentation of a pre-admission assessment if admitted after the specific date of the county implementation, thereby documenting that all five conditions are met.

Residents of CBRFs receiving COP, COP-W, and/or CIP-II funding that were placed in the facility prior to May 1, 2002, where a pre-admission assessment occurred when required, are not required to meet the additional conditions discussed in this attachment.

IX. Policies in Summary

In order to use COP-Regular, COP-W, CIP-II funds in CBRFs of any size, all of the following conditions must be met:

1. **A pre-admission assessment or consultation has been conducted** prior to an individual's admission to a facility and regardless of their ability to pay. For details on the pre-admission assessment requirement, refer to:
 - DSL memo series 98-05 dated May 20, 1998,
 - COP Informational Bulletin number 133, dated June 24th, 1998,
 - DSL memo series 2000-05 dated June 6, 2000, for information on the pre-admission consultation in lieu of the full assessment.
2. **In-home care services must be determined to be infeasible.** To determine that in-home care is infeasible, it shall be documented that:
 - a. A change has occurred in the individual's condition, functioning, living situation or supports so that arrangements that were in place and adequate to maintain the individual's health, safety and well-being are no longer sufficient to provide or ensure the provision of what the individual needs, and
 - b. Options for supporting the individual in his or her own home and community have been explored or attempted but have either failed or been found to be unavailable or not possible.
3. **The CBRF must be the individual's preferred residence.** When residing or seeking to reside in a facility with more than eight beds, the individual shall have the option of a private room in a quality care setting, and it is documented that:
 - a. The assessment explores an individual's lifestyle habits and preferences that at a minimum determine if the client prefers a private room or a shared room; and
 - b. The individual has been fully informed of all residential options; and
 - c. The individual has had the opportunity to visit one or more CBRFs, and, when desired, other residential settings; and
 - d. The individual or legal guardian indicates that he or she agrees to a proposed move into a particular CBRF.

4. The CBRF provides quality care services in a quality environment.

To determine quality, a county agency shall establish standards or criteria for quality in a CBRF and incorporate these standards and a process for evaluating compliance with these standards into the contract with the facility. At a minimum the standards or criteria will include provisions related to:

- a. The facility allows for privacy.
- b. The facility has corrected any sanction, penalty, or deficiency imposed by the Department in accordance with HFS 83 and to the satisfaction of the county agency.
- c. Care, services, and the physical environment of the CBRF address the individual needs of the participant.
- d. Care, services, and the physical environment provided by the CBRF address the individual preferences of the client.
- e. The CBRF provides opportunities for potential new residents, their families and county care managers to observe, experience and evaluate everyday activities.

5. The CBRF is cost effective compared to other options. To determine this, the following documentation is required in the individual's file:

- a. A copy of the participant's functional screen.
- b. A copy of the participant's complete COP assessment.
- c. A copy of the plan of care.
- d. A listing of the services to be provided in the CBRF, the facility rate and any supplemental services such as care management, adult day services, transportation, etc. and their costs.
- e. A listing of feasible community services, provided in-home or in a less restrictive residential setting, to meet identified needs which includes service costs.
- f. A cost comparison of the specific CBRF identified for potential placement, the projected community care costs as reflected in the individual service plan, and the average cost of a nursing home in the county based on the determined level of care.

For the CBRF to be considered cost effective, the cost comparison will show that the facility has the capacity to effectively meet the needs of the consumer at a reasonable cost.